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TENNESSEE'S CELEBRATED CASE

("Causa Celebre")

REVERSED BY HISTORY

By

JOHN B. COWDEN

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To clear the record and remove the smear of the Magness family, this publication is sent forth, the expense of which the descendants, the beneficiaries and the friends of the family are requested to share.

Gratefully,

John B. Cowden,
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Nashville, Tenn.

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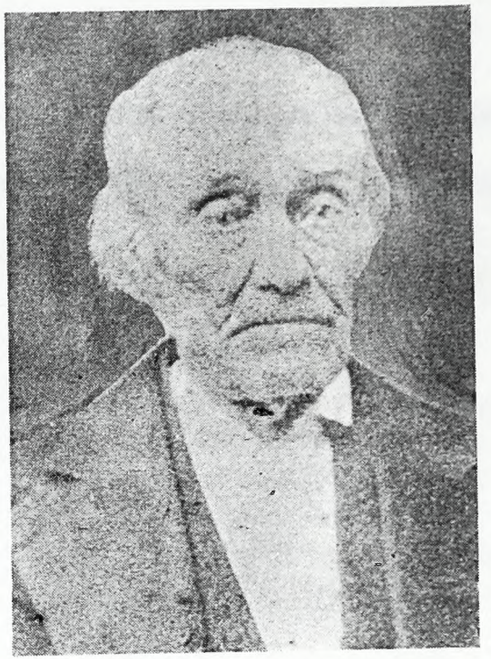

Perry Green Magness

By

John B. Cowden

1958

Clarksville - Montgomery Co.

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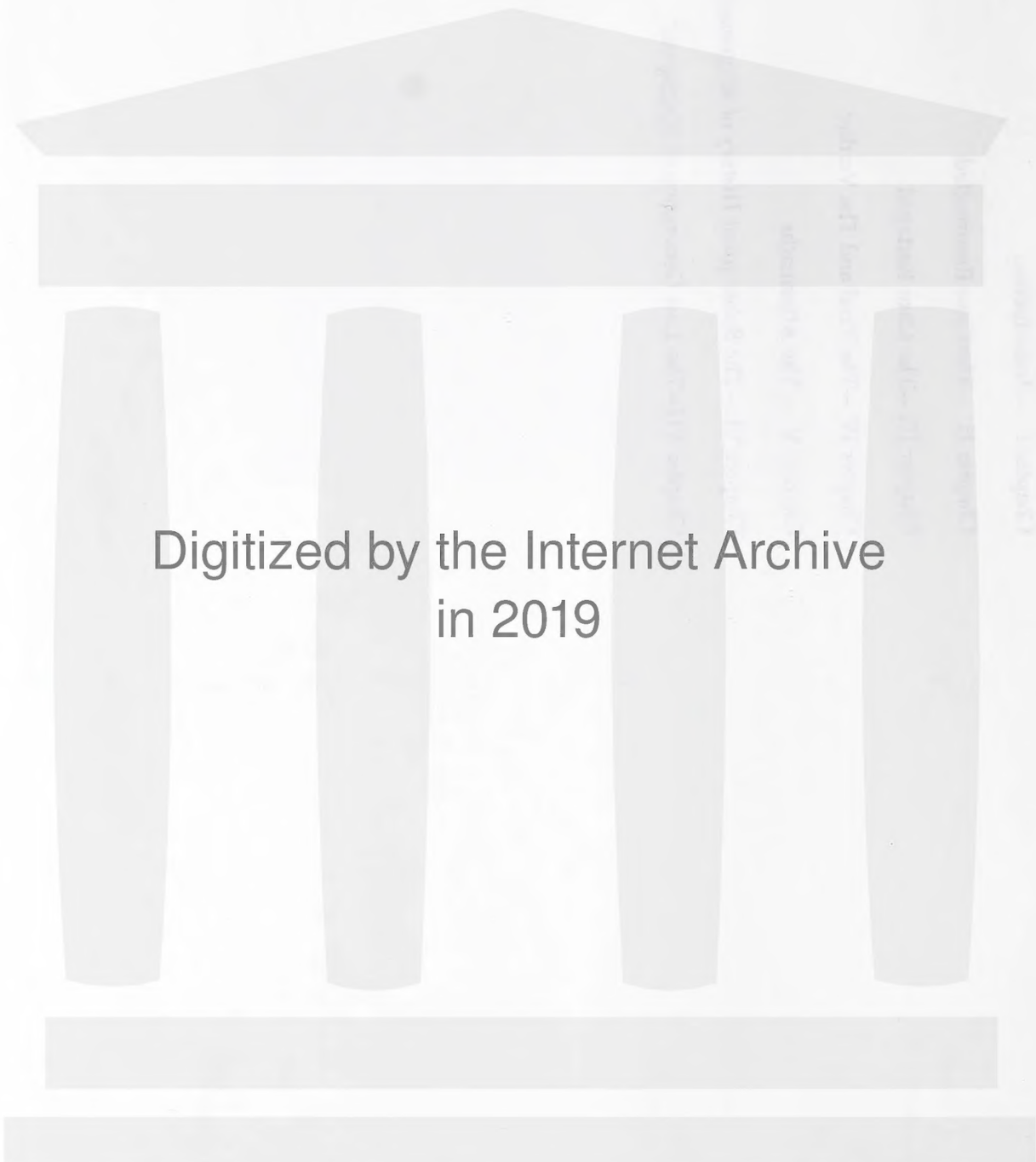

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INTRODUCTION

TENNESSEE'S most celebrated case was a murder case, which occurred a century and a half ago between two prominent pioneer families, namely Pres. Andrew Jackson and associates, the Andersons, prosecutors, and the Magnesses, defendants, which involved the greatest men of the State and Nation—a star-chamber event of great importance and historically termed "Tennessee's Causa Celebre." It was tried and settled through the regular processes of the courts, recorded briefly and consigned to history and the memory of man; and, if not soon forgotten by contemporaries, it was soon forgotten by succeeding generations and left deeply buried in the past. Its importance was not then realized. In fact, it was deeply regretted, which doubtless hastened its decease. If the succeeding lawyers knew of such a case, they were restrained from dragging this skeleton from the closet of the past. It would doubtless have remained behind the curtain of oblivion had not a historian of Washington, D. C., Wm. N. Chambers, disinterred it in his researches of the life and history of Senator Thomas H. Benton, who was one of the participants in the suit. He published his findings in the Tennessee Historical Quarterly, (Vol. VIII, No. 4, page 339-40) two years ago; and like the Ghost of Banquo this old suit arose from its tomb, calling for corrections and belated justice, and a new hearing.

A few years before this I, having married into the Magness family, had written a short history of the Magnesses, following the deaths of the leading members of the family. Having lived in close touch and association with the families for many years and feeling indebted to them, I made a close research and study of the family, and soon after their deaths I had the same published; but in all my investigations I found no mention of such a suit. I was greatly shocked by the charges and the implications of the publication. There was no one then living and wearing the name, Magness, to investigate, answer and explain; and I knew nothing to say. I went to many close relatives; but they knew nothing. Having written the history of the family, it devolved upon me to investigate the records, which I did; and the findings and facts of this research are herein given.

Also in this historical study of the Magness family I discovered some of the secrets and accruing results of history, which only the centuries reveal. Herein lies the value of history. Often it is found that events, which at the time were thought to be routine and trivial,

temporal and local, rise out of the past with their messages of wide important truth. This I found to be true of this old law suit. This is why it is Tennessee's Celebrated Case, which will be seen as the case unfolds.

It seems to have been an unmentionable subject by the devotees of President Jackson. No one in American history has been more thoroughly studied and portrayed; yet this old law suit is not known today. The reason for this will be evident. Why the discoverer of this suit, Mr. Chambers, did not make a more thorough investigation, is strange indeed. Investigations some times reveal discrediting facts about people of the past, which are shocking and discrediting. This will be found to be true of this old suit. President Jackson is a political idol today, whose prestige and standing are devotedly held and defended by all good Democrats. He will be found to be a strange mixture of good and evil like most all other people. This is to be regretted; but he was so revealed in the trial; and after all no person or event is fully known until seen in the light of history, which we propose in this study.

President Jackson was a celebrity to the nature and manner born. He was addicted to the sensational and was in the lime light whereever he was. He lassoed the windmill of publicity on all occasions and became a central figure in all situations; and after becoming widely known anything touching his life and character was more or less celebrated. He was news wherever he went; and history followed in his steps; but not all of it was creditable history. He was a strange mixture of good and evil, a part of which is attributable to the age in which he lived. He and all parties connected with this case must be seen and judged on the background of pioneer life and the mores of the same. Ethical standards have greatly changed since those days, which will be obvious from this review.

President Jackson was never a reformer, but rather one to be reformed,—an advocate of the status quo and a builder of a new nation on old foundations, the old Mosaic and English law, which was cruelly just. He was a great statesman but never a reformer. There was much in his life, socially and morally, which is reprehensible according to ethical standards today, and has been embarrassing to his devotees, over which a mantle of charity has been thrown, especially this old trial, but the recent incomplete publicity and record of the case does a great injustice to the Magness family which calls for correction. A part truth can be very different from the whole truth, which in this case must be known to do justice to all parties concerned. This requires a full recovery and

restaging of this old case, which today is known only as Tennessee's Celebrated Case. The editors of The Tennessee Historical Quarterly, in which the errors were first published and should be corrected, rejected this publication, seemingly on the principle, "The King can do no wrong"; but at least the people should be permitted to know what he did.

The Jacksons and the Andersons were well-known in pioneer days, especially the Jacksons. The Andersons were known only through their association and relationship with Jackson; but after the trial they dropped out of the records; and nothing is known of them since. All the pioneer records reveal them as sporting gambling dissipating characteristics, unworthy and prohibitive of historical record so they soon passed from the stage of action. Except for their connection with President Jackson in sports and the trials I found nothing further about them. Locally, the Magnesses, the other parties to the suit, were well and prominently known; and the records are rather full of their transactions in pioneer days. That the suit may be seen in its historical perspective I give the following account of their history preceding the suit.

President Jackson, who is well known to all citizens of this country, needs no further introduction than what is given in current histories; but the Magnesses are not so well known so a brief sketch of their preceding history is herein given.

The North Carolina Family

The House of Magness, according to family tradition and the oldest available records, had its permanent or settled beginning in the United States in old Tyrone County, North Carolina, which included several south central counties of North Carolina and Spartansburg County, of South Carolina, from which the Magnesses were said to have emigrated to Tennessee. They were Scotch-Irish, having come from Ireland to their North Carolina home by way of Pennsylvania, Maryland, and Virginia with the tide of Irish emigrants about 1750-60. Being Scotch-Irish, they were doubtless among the families whom King James I moved from Scotland to Ireland to occupy the lands of the Earls of Tyrone and Tyreonnel, 1620-60. These Scotch Protestants, however, did not find a favorable, congenial home in Catholic Ireland, consequently they embraced the first opportunity to come to America. So many of them came to the south central section of North Carolina that it took the name of Tyrone County. Court records show that the Magnesses were established

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in this section before 1770, and Revolutionary War records show that they were active in the war for independence. A few still remain in this section, but most of them emigrated west into other states.

Deeds to land show that the Magnesses settled in the Golden Valley section of old Tyrone County along the streams of Big Hickory Creek, First Little Broad River, Brushy Creek, Sandy Run, and Grassy Run Creek. This section, which is now in the western part of Cleveland County, was cut out of Rutherford and Lincoln Counties, which were formerly a part of old Tyrone County. There are no records to support the family tradition that the Magnesses lived in the Spartansburg section of old Tyrone County, from which they were said to have emigrated into Tennessee. This might have been the starting or gathering point of the emigrating party; but they evidently lived farther north in what is now Rutherford, Cleveland, and Lincoln Counties. There are abundant proofs of their homes in these counties, from which many of them moved west into other states. This sketch has to do with the genealogy and history of the family that moved to Warren County, Tennessee.

In this long trek from Scotland to Tennessee there were three families, the Magnesses, the Potters, and the Cantrells that appear together in all records. They emigrated together, settled together, lived together, intermarried, did business together, worked together, and worshiped together. I have never known families so closely intertwined and inter-related over such a long period of time and space, which associations and connections have continued down to the living present. They were marvelously prolific with families running into the teens, populating rapidly the sections where they lived. All three names are good old English names of pure Anglo-Saxon strain. The name, Magness, dates back to the Roman period of English history, being derived from the Latin, magnus, which denotes greatness, and doubtless had its beginning in some great notable or celebrity, long since dead to fame and unknown to history. Mr. Peter Magnus, of Pickwickian fame, might have belonged to this family, the name having been changed by Dickens for literary policy. At any rate, the name is old, honorable, and distinguished, such as is to be "chosen rather than great riches." The family has a rich heritage in the name, which has come down from the ancient past, increasing and enhancing with the years.

The earliest recorded Magness family in North Carolina was that of Perregreen Magness, of old Tyrone County. He is spoken of as living there in 1770 and active in the Revolutionary period, being captain of a company, on the Committee of Safety, and a member

of the Provincial Congress in 1775. (Court Minutes of old Tyrone County.) The family is reported in the 1790 census as living in Rutherford County which is the same section of old Tyrone and now a part of Cleveland. This is the Golden Valley section of the state, where the Magness family had its southern beginning and where they lived for fifty to one hundred years. Perregreen Magness is reported as conveying land to his son, William, in 1774, which indicates that he was there much earlier and was born back of 1730 or thereabouts and was an Irish emigrant. After the year 1770 the court records are filled with the name of Magness, showing that the family was active in both business and politics. From these records the names of the children of Perregreen Magness were as follows:

William, never married
Joseph, wife, Anna Belle Twitty
Benjamin, died in North Carolina, leaving eleven children
George
Jonathan
Robert
David
Perregreen, who died in infancy
Patsy, husband, John Preston
Sallie, husband, William Hicks
Perregreen, wife, Mary Cantrell, of Warren County, Tennessee

You will note from the above that Perregreen Magness had two sons named Perregreen, which seems unreasonable; but, in as much as the first died in infancy, and he wished to leave an heir by his name, this was sensible. His wife was named Mary, but we have been unable to dicover her maiden name. He and his wife with most of the above children moved from North Carolina to Woodford County, Kentucky, about 1796 or 1797, thence to Warren County, Kentucky, where he died in 1800, as shown by his will, which is as follows:

"In the name of God Amen. I Perregreen Magnis of the County of Warren and the State of Kentucky being in a low state of health but in perfect sence and memory do constitute & appoint this my last Will & Testament in manner & form following (Viz.) 1st. My will is that all my just debts shall be paid. I then lend to my loving Wife Mary Magnis my whole Estate during her natural life and at the death of the said Mary Magnis she is to have the free & and voluntary disposal thereof. Also my Will & and desire is that George Magnis & Joseph Magnis shall be my whole & and soul Executor.

n Witness whereof I have hereunto set my hand and affixed my Seal his the 8th day of May 1800.

'est. PERREGREEN MAGNIS. (*Seal*)
Vm. Black
ohn Black.
'robated July Court, 1800."

After the death of the father the rest of the family moved on into 'ennessee where they bought land in Rutherford and Wilson Counties nd settled. Jonathan bought four tracts in 1806-11 in Wilson County mounting to 1280 acres on Hurricane Creek and the first creek East f Pond Lick Creek; and the other members of the family bought ear by in Rutherford County near the border of Davidson, or so appears from the deeds without visiting the locations. The families ved here until about 1814. Little is known of their lives during ese years. The pioneer work of clearing land and building houses which to live claimed most of their time and interest. Also there e records of several minor suits, which were decided in their favor; ut this final tragedy took and destroyed their all, and scattered the mily again, after which they did not return. When I wrote The ouse of Magness several years ago, this tragic suit was buried under ie accumulations of a century and a half, so was not included, but cently it has been excavated and published abroad in the Tennessee istorical Quarterly in an article on Senator Thomas H. Benton, of ennessee and Missouri, which makes it a living issue.

CHAPTER II

The Case Resurrected

THIS CASE buried deep in the archives of the State for a hundred and fifty years recently arose from the grave and walked among the living in THE TENNESSEE HISTORICAL QUARTERLY, Vol. VIII, No. 4, page 339-40. Wm. N. Chambers, Washington, D. C. in writing the history of Sen. Thomas H. Benton, one of the participants in this case, states the following:—

"From the first of 1810 to the middle of 1812 Sen. Benton was active in more than forty-five cases at law. If he was not exactly a match for the elegant pleaders of Nashville, who handle cases involving thousands of dollars, he was at least a leader at the bar in his own region.

"One law a case grew out of a feud that rivaled the later legend of the Hatfields and McCoys. On a chilly October afternoon in 1810 in front of Bedford courthouse at Shelbyville, one Patton Anderson was approached by Jonathan Magness and his sons, Perry Green and David Magness. The Magnesses thought they had some grievances against Anderson, and the conversation soon exploded into a quarrel. Anderson promptly pulled a dirk from his pantaloons, but his friends rushed up and dragged him away. The Magnesses stood about for a while, in close conversation among themselves, and occasionally curses were tossed back and forth between Anderson and his enemies. The crowd in the square gawked and waited for something to happen. The wait was not long; after a short time, Perry Green Magness calmly walked over and shot Anderson through the heart.

"Now Patton Anderson was a close friend of President Andrew Jackson. If Anderson had a quick temper and had tended lately to sporting ways which put him in the company of knaves and to a habit of drinking which increased his passions, he still had important friends who swore vengeance against the Magnesses.

"Old Magness and his sons were apprehended, and the best lawyers appeared on both sides of the case. Council included such members of the Nashville Bar as John Haywood, Felix Grundy, later a U.S. Senator, Jenkins Whitesides, just elected Senator—and in a very junior capacity, Thomas Hart Benton, Esquire of Leiper's Fork. The case began in Bedford; but, when the Magnesses objected that they would not get a fair trial there, it was shifted to Williamson. By the last week of November it was feared that no decision would be reached that term. Forty two witnesses had been called, a week had been consumed on one question, and every point was contested!

But by the end of the month the jury had in fact been able to find a verdict of manslaughter against Perry Green Magness, who was sentenced to be branded and imprisoned for eleven months. Old Magness, who was accused of pressing his son to shoot Anderson, was held for later trial as was David Magness.

"Young Benton's part in the pleadings was a minor one. But as junior counsel he had to precede his elders, and he put into his arguments to the jury every thing he had in the way of logic and oratory. After all, his mentor, Andrew Jackson, was in the throng of spectators in the courtroom. When he had finished, Jackson complimented him heartily, though Benton suspected that Jackson found his efforts better that they were, simply because they lay on the side of Jackson's feelings."

The above based on newspaper report of Nashville Clarion & Gazette, carelessly written and from a prejudicial viewpoint, contains many damaging errors and statements contrary to the facts as will be shown by the records. Personally, it was a stroke out of the clear blue. I had married into the family and lived many years in close association with all members of the Magness family and had written the history of the family from Ireland to Tennessee; but I knew nothing of this case. There were few then living and wearing the Magness name; but there were more than a thousand descendents of Perry Green Magness in middle Tennessee, most of whom I knew closely, who never heard of this case involving their ancestors. I then decided that I would find out about it from the records of the past. It was buried under the accumulation of a century and a half and long forgotten by the living. After a year's research of old histories, court records and family records I rediscovered this old case. I was greatly aided by the fact that these two families were prominent and active and left "foot-prints on the sands of time," which I followed back to its beginning and end. I found the following errors or misrepresentations regarding the Magnesses and the suit: 1. The case was in no sense a feud. It was settled in court; and here was no recurrence of trouble. 2. The Jacksons and the Magnesses were the parties involved. The Andersons were pawns or tools of President Jackson. 3. Perry Green and David Magness were not the sons of Jonathan Magness but the brothers. 4. Perry Green Magness was not convicted of murder but cleared. At this time he was only a boy of 14 years. 5. David Magness was the only one tried and found guilty of only manslaughter with eleven months imprisonment, which was the equivalent of being cleared. 6. The Magnesses were cleared of crime but imprisoned for court costs. 7. The Magnesses were not

of the destitute criminal class, neither knaves nor scoundrels but always high-class citizens. It is passing strange that so many errors could be in so brief an account. To correct these errors I wrote a brief article requesting publication in the Tennessee Historical Quarterly, which was refused, I think, because it involved criticism of President Jackson, who is a State idol and can do no wrong. I next appealed to the Nashville press; but the editors rejected it, because it was not news but history.

This left only personal publication as a means of informing relatives, friends and the interested public. I advised with many both the interested and disinterested regarding the wisdom and the effectiveness of such a publication. Practically all strongly opposed, saying, Why bother about this old law suit at this late date? Let the dead bury the dead and let them stay buried. Ignore and forget the whole affair. It *was* dead and buried. Let it die again and bury truth and lie in the same grave. Any notice taken will only prolong its life and make bad matters worse. Say nothing and forget it.

I made up my mind to accept and follow their advice; however, I was convinced against my own will and judgment; but there was ~~no~~ one rebellious member of my being, my conscience. I was greatly indebted to the Magnesses. In fact, everything that my family possessed came from them. I left like a traitor to benefactors. Also gratitude asserted itself and made the decision embarrassing. Silence, when the "good name" of the Magnesses was being reflected upon and their 'fair escutcheon blotted" was unthinkable. While thus beset and frustrated, another thing came to pass. A few weeks ago I noticed in a local paper the announcement of the publication of the biography of Senator Thomas H. Benton, of Tennessee and Missouri, by Wm. N. Chambers, of Washington, D. C. I hastened to see a copy, hoping that this whole affair would be cleared up and settled; but I found practically the same account in a large book of 500 pages, giving a full record of his life and character from the cradle to the grave, including this trial, but not a word of corrections—and not a word in justice to the Magnesses. In fact, a few items of censure were added to the account as published in the Historical Quarterly making it more objectionable. It appears now that the article in the Historical Quarterly was taken from the book then being written and propagandized by the article; but the book contained no corrections or further explanations. The book only added a few more items or details of the trial.

The publication of this book decided matters for me that I would make a thorough research and study of this old case and publish all

that I find. Its coming to life today after a century and a half of being buried is proof of history that it should be known and published. "The evil that men do live after them; the good is oft interred with their bones." As in all lawsuits there is good and evil on both sides; but in this case the good in the Magnesses was buried in the above book and evil added, which only restaging of the trial will reveal. With due respect for all those involved in the trial of that day, there are succeeding generations of relatives and friends who have a right to know all the facts. Mr. Chambers did not consider this cloud of witnesses today. He must have thought of the Magnesses of the trial as some of the human flotsam and jetsam, which long ago went down the drain of humanity; but, if he had visited Middle Tennessee and investigated the records and the descendents of these men in the trial, he would have found hundreds of them the social, business, educational and religious leaders today. This publication is for their information and edification. They have a noble ancestry, whom they have the right to know in their true light, life and character.

There is still a much larger group interested in this old suit, the public. It is part of the public's history, the authenticity and the integrity they have the right to know. There is a seeming break here between the past and the present; but it is because that all the facts were not recorded and some not rediscovered, which has brought this old case out of its tomb for fuller and truer light and meaning. The past has a way of coming back to life for corrections and additions. This is the function of the historian; but he should be sure of all the facts. A part truth can result in a great falsehood. With this in mind we come next to the restaging of this old trial to see the truth and justice of the same. The records of courts of that day were very brief and limited by poor equipment; but nevertheless we found rather complete records and can be sure of the essential features and much of the details, background and atmosphere of this old law suit.

Besides this old case has an added meaning for the public, that is, it marks the break in criminal law between the old severe law and spirit of justice and persecution and the new law and spirit of mercy and reclamation, which perhaps was not thought of then but manifest in the courts today. In this respect this old case is epochal and consequently celebrated. Also it reveals great progress in court equipment and procedure. At any rate, it is good to "Look at the rock from which we were hewn and the hole of the pit from which we were digged."

CHAPTER III

The Case Restaged

EVERY LAWSUIT has a difference or trouble, which caused it, and is known as the history of the case. This is generally known at the time but not always recorded. Unfortunately only a few facts of this old case were recorded. It was of long and serious standing and grew out of a land transaction between neighbors, the Andersons and the Magnesses, who were large pioneer land owners on the boundary between Wilson and Davidson Counties, in the section known today as the Hermitage, the home of President Jackson. Patton Anderson was accused of passing a fraudulent land warrant, or, at least, the warrant was the cause of the trouble. The Magnesses were the prosecutors, because they were never accused regarding the warrant. The case had been brought before the Chancellor in Bedford County; and they had met there for trial. On the way, according to records, Patton Anderson remarked to his companion that, if he got this trouble settled, he would move to a Northern State, which indicates that he was on the defense.

The killing occurred in the Court House, Shelbyville, Tenn., the victim, Patton Anderson lay dead; and the parties accused, Jonathan, David and Perry Green Magness, were immediately arrested and committed to prison. Locally there was great excitement but no further trouble.

Public communication of that day was very limited. The press of Middle Tennessee was confined to the Nashville Clarion and Gazette, which gave the following report:

"On Wednesday the 24th ult Mr. Patten Anderson was shot at Bedford Court House about one o'clock in the evening. The circumstances of the case are variously related; but it is believed that the following account may be relied on. In the morning Jonathan Magness, the father, and Perry Green Magness and David Magness, sons, and others who were at enmity with Anderson, were noticed to be in close conversation at a distance from any other company; and, when they separated, Perry Magness had a holster of pistols on his arm and a pair of saddle bags over them. After sauntering about for some time they came to where Patten Anderson was; and the old man spoke to him about the subject of their difference; and a quarrel ensued. Anderson drew a dirk, which a friend of his took hold of him and led him off a few steps; but they continued to use abusive words, until Perry Magness, who had seated himself at the far side of the house,

alked up and shot Mr. Anderson through the heart. The Father and ons were apprehended; and, the homecide being committed under the ie direct eye of the Circuit Court, the grand jury found bills for urder against all three; but they objected to being tried in Bedford ounty. The Judge therefore ordered their trial to be in Williamson ounty, the court for which County is Monday week.

"Perhaps few men ever live publicly as Mr. Anderson, whose charac- r is difficult to sketch. Descended from one of the most respectable milies in Virginia he embraced in early youth habits which in riper ars he was the slave of, the worst of which were his uncontrollable ssions, in the fury of which his native goodness of heart peered out e the sun from behind a cloud and shed a lustre over his feelings, it a continued round of sporting often laid him open to knaves, who, ofiting from the confidence placed in them, plundered him of his ealth and added strength to his ungovernable passions. Aside from e influence of this bane, none had a kinder heart, a more benevolent sposition or were more constant in their friendships, of which several stances could be mentioned much to the credit of the deceased. e had a clear understanding and a correct judgment—but he is gone the prime of life; and his good and bad lie buried in his bloody ave. His death is distressing to an only brother whose cup of afflic- on has been twice filled in the short space of about ten months—first the loss of an amiable companion and now that of a brother."

Most of the above is obvious pleading for Mr. Anderson and also ntains errors as to the relationship of persons and the identity of the ller. Also the Magnesses were not proved to be "plundering knaves" or sassins as herein intimated and stated.

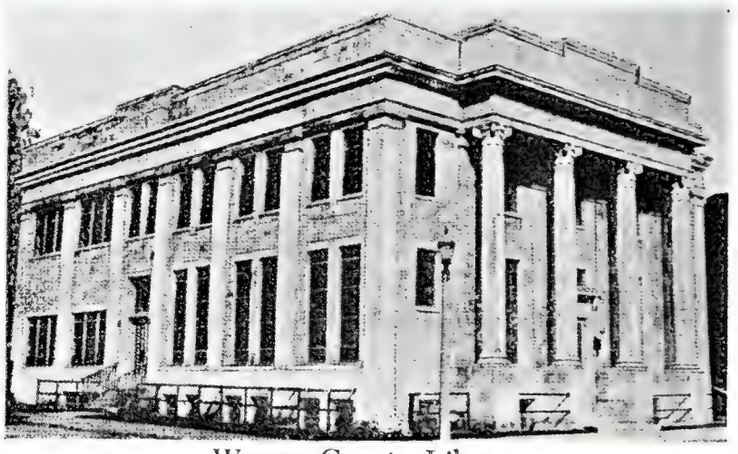
Next, a celebrated case calls for celebrated lawyers, who were uickly secured for both the prosecution and the defense, the ablest d most talented of the State and the Nation, namely, John Haywood d Thomas Benton for the prosecution and Felix Grundy and Jenkins hitesides for the defense. For those not informed on these attorneys give brief estimates by the Bench and Bar as follows:—"Felix undy, United States Attorney-general and Senator from two states, perb criminal lawyer, will always rank among the greatest men this untry has produced. As an advocate he arose far above competition d challenged every age and every country to produce his peer. He t only one case out of one hundred and sixty five."

John Haywood, lawyer, author, historian, religious philosopher, the ding attorney and the greatest jurist ever on the bench of Tennes- , a fine genius and most powerful advocate with an eloquence that ached the heart and convinced the judgment.

Bildad Baptist Church

McMinnville Baptist Church

Old Folks Home



Warren County Library

William Hall Magness

Father

Elizabeth Jane West

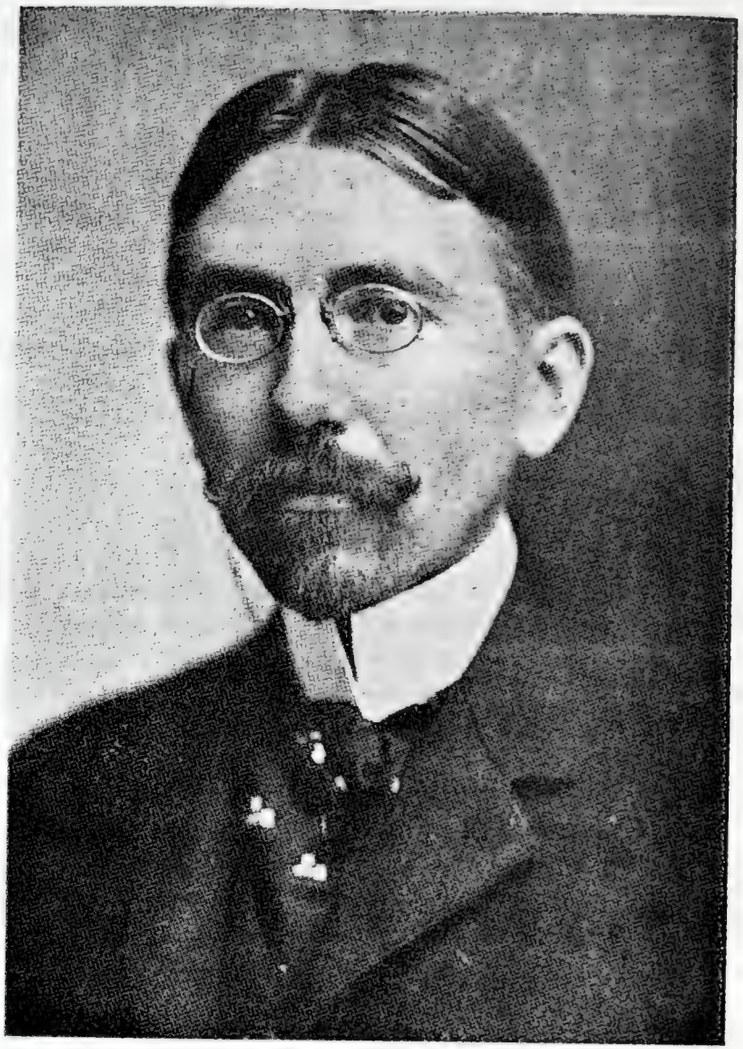
Mother

Mrs. Cordelia Smallman

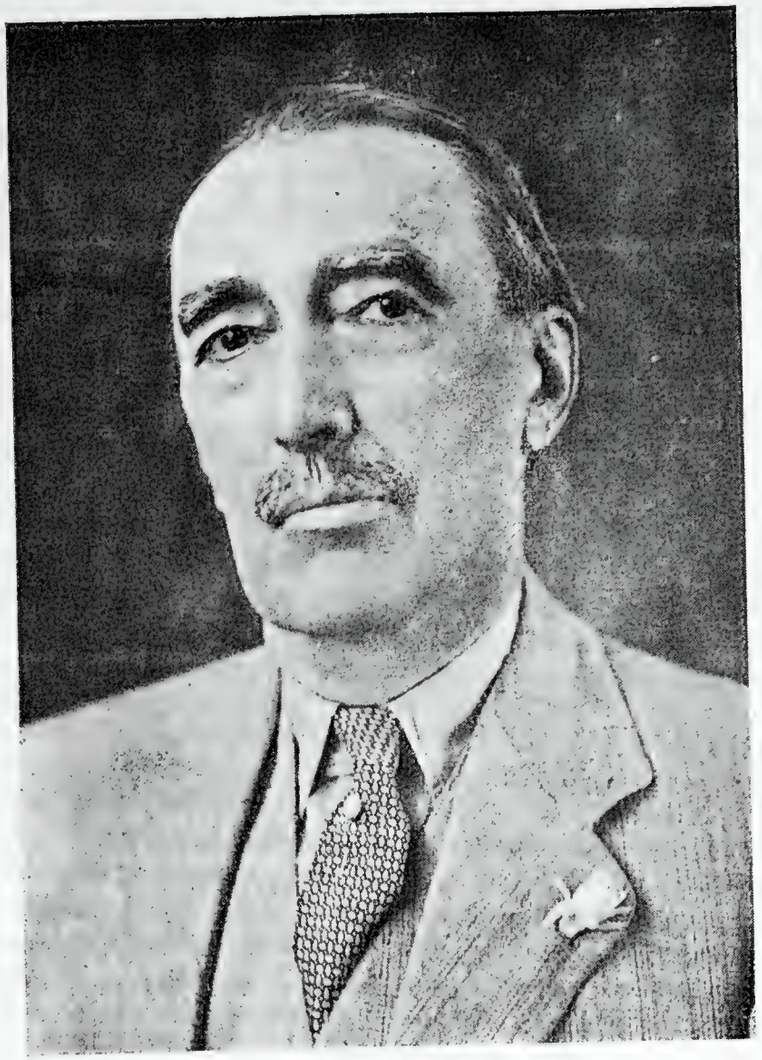
Daughter

Mrs. Ella Simms

Daughter



Edgar Magness



William H. Magness

"Judge Haywood was a fine genius and a most powerful and unrivaled advocate. In tact and eloquence—a genius—such eloquence as reaches the heart and convinces the intellect—he had no superior in Tennessee. He was often employed with and against the late Felix Grundy in most criminal cases, and it would not be saying too much to say he was his equal in eloquence and logic."

Jenkins Whitesides, "of the many illustrious names in the history of the bar of Tennessee there is none more conspicuous, a great land lawyer, a man of vigorous understanding, of wonderful sagacity and acuteness." I am not sure that he was for the defence; but a question of land law was involved so he likely was. It also took him to balance the bar.

"Thomas H. Benton, of Tennessee and Missouri, local lawyer in the case, masterful, commanding, intellectual, of large and liberal culture, skilled in public and political relations." In addition I quote the following from his biographer: Mr. Chambers in his book, "Senator Benton stands as a symbol of his time more than any other leader except Jackson. He was the distinguished advocate and representative of the democratic movement. He was the great champion and able exponent of free-holding farmers, urban small traders and working men. Also he was a powerful polemic speaker and rhetoritian in the full grand style of his day."

Surely no case ever had such an able and celebrated bar. All had held the highest legal offices and reached the summit and crown of their profession. They were of the tribe of legal giants. The reputation and the prestige of these attorneys became legendary and are still so held. Estimates that have persisted through the ages must be true. One egotist of today whom I interviewed said, "they were the greatest lawyers up to that time"; but no others since have taken their places.

The judge in the case was the first judge of the Circuit Court of Middle Tennessee, Judge Stuart, who was equal to the occasion and duties. Notwithstanding the powerful bar that confronted him that raised or questioned every point and step in the suit, he held the suit within the law and order and brought it to a just verdict. He remained long on the bench and was one of Tennessee's great judges.

I found no mention of the attorney-general for the State. The great lawyers employed in the case for the prosecution must have made him useless or not needed. The clerk of the court with no recording emplements except a goose quill made very brief records in the now old and musty books of the first sessions the Williamson County's Court, where the record of this case is still legible but meagre. Only the parties to the suit, officers, the jury and the verdict are given. The

jury was of representative pioneer citizens as follows: Henry Cook; James Gideon; James Hicks; Samuel McClurkin; R. Parks; Andrew Goff; Robert McLellan; Thomas Ridley; James Hartgrove; R. Pucket; Tom Berry; and Thomas Walker.

Besides the jury, the court, the bar and the court officers there was a third party, John Q. Public, the public, who were there in droves from all directions. The little village of Franklin and the small County of Williamson County were bursting at their limited seams with people; but those were pioneer times when people were accustomed to Nature's accommodations so they made out to hear the trial. This large audience was due to the tragedy to be heard, the prominence of the parties involved and the principles of law to be heard. It seems that the Magnesses were little known; but the crowds followed Jackson wherever he went; and the above talented lawyers were drawing cards in all courts. Also there must have been many curious and sensational addicts present, and also the friends of both sides.

While a knowledge of the court, the judge, the attorneys and the jury is important to an understanding of the case, a knowledge of the litigants is more so. The more we know of the parties involved, the prosecutors and the defendants, the better we can judge the case. We need to know their background, lives, characters and histories, which is usually given by the lawyers; but at this late date when all the participants and contemporaries have been long dead, this must be gotten from the records, which, due to their prominence and activity, is quite full. Fortunately, also the Jacksons and the Magnesses had a common parallel history beginning in the North of Ireland where they dwelt in adjoining counties and coming to adjoining counties in both North Carolina and Tennessee, into which States they emigrated about the same years, 1760-70, the Jacksons settling in Mecklenburg County near the State line and the Magnesses near the State line in Lincoln and Rutherford counties. Both families fought in the Revolutionary war, in which Perry Green Magness, Sr. was a Captain and President Jackson was a soldier, so the two families must have known each other both in Ireland and North Carolina; and, when they moved to Tennessee, they again settled in adjoining counties, Davidson and Rutherford only about six miles apart, where, of course, they knew each other. In North Carolina, the Jacksons were small landowners, which President Jackson squandered before coming to Tennessee; but the Magnesses were large landowners in the Golden Valley of Old Tyrone County, N. C., which then included the above border counties. President Jackson lost all his family in the Revolutionary War, coming to Tennessee alone, Perry Green Magness, Sr., the father of the Perry

Green of the suit, had a large family, twelve children, namely, William, Joseph, Benjamin, George, Jonathan, Robert, David, Perry Green, an (infant deceased), Patsy, Sallie, and Perry Green, Jr. of the suit, and Morgan. The father, Perry Green, with part of his family emigrated into Tennessee in 1796 by way of Kentucky, where they lived a few years in Warren County where he died in 1800, after which the family moved on to Rutherford County, Tenn. Several members of the family remained in North Carolina, of whom was William, who according to records of the winding up of his estate, was a very wealthy and important man of that day. The members of the family coming to Tennessee bought large areas of land lying on the border of Davidson, Rutherford and Wilson counties, twelve to fifteen hundred acres, not far from the lands owned by Pres. Jackson. The difference that led to the killing and trial arose over a land transaction.

Though living near each other the records give little or nothing of the contacts and relationships between these two families during the first ten years of dwelling in Tennessee but much about the activities of Pres. Jackson. During these years he became United States Attorney General, Supreme Judge, Senator, Army General, the ruling head of politics and the State government, and finally President. Also he was equally active and successful in business in real estate, cotton dealing, merchandising, etc., which made him a very wealthy man for that day.

During these years Pres. Jackson was involved in many difficulties and tragedies, not so much from business transactions as from social and sporting relationships. He was addicted to two sports, cockfighting and horse-racing, which were not only sports but large money transactions, which involved much profit and loss, and were the sources of many of his troubles. He built a cock-pit and race course at Clover Bottom near his store, which was the business, social and sporting center of this section, gathering crowds of hundreds and thousands. The wagers on these animal contests were from one dollar into the thousands; and often large tracts of land were lost and won, and many other valuable possessions were wagered in bets. Unfortunately, in gambling there are always as many or more loosers than gainers, which resulted in quarreling and fights galore and tragic. Pres. Jackson was the controling head and owner which held difficulties to a minimum; but they often got out of control. He had to have helpers and partners in these sporting enterprises. This is where the Andersons enter the picture. When he started his cock pit and race course, he took the Andersons, Patten and his brother, in as partners, who managed and ran the sports. They and Pres. Jackson were also heavy betters them-

elves, which led to suspicions and accusations. The Andersons were often at the center of trouble. In the Truxton-Grey Hound race Patton Anderson wagered his own horse and fifteen others in his trust and training, for which Pres. Jackson rebuked him. At the close of another race Pres. Jackson rescued him from a mob of angry betters that were pursuing him, by confronting them from a style, threatening to kill any man that tried to cross the style, which gave Patton Anderson a chance to escape. Pres. Jackson told of it as an amusing incident of stopping a mob with the clicking of his tobacco box, which they thought was a pistol. Pres. Jackson told of his rescuing Patton Anderson again at a long outdoor dinner table where the crowd was eating. A fight arose at the opposite end of the table with no way of reaching the fight except on top of the table, which Pres. Jackson mounted with pistol in hand and walked, crying, "Hold on Patten, I am coming," and others shouting, "Don't shoot." Also as an aftermath of the race between Truxton and Plow Boy, which was forfeited due to Plow Boy's lameness, Patten Anderson started the rumor that the terms of the settlement were tricky, which rumor was added to by Mr. Swann before it reached Col. Dickinsen, and was a factor in causing the duel and his death. Patten Anderson was engaged in many brawls and near tragedies; but he was finally killed in the last, the trial of which is the case in hand. But, so far as we know, this killing did not grow out of the sporting brawls at the Clover Bottom race course; but they show the life and character of the man killed. His reputation for peace and sobriety was bad, to which even his friends testified. During these years Pres. Jackson himself engaged in quarrels, brawls, fights, duds, challenges, duels, etc.

During the above ten years the public record of the Magnesses is scant and not all good. We find them engaged in several minor suits, one of them criminal, which resulted in their favor but did not reveal them to be entirely peaceful. There is no record of their attending the races and cock fights at Clover Bottom; but they lived close by and perhaps did. They were doubtless engaged in clearing land and founding their new home; so their lives here during these ten years were private and pacific so far as we know, but this killing brought them again into the public notice.

The above was the known personal and social background of this old suit, which is contained and revealed in current history and records of all kinds; but all the facts can not be fully known today. The parties to the suit were well-known; and most of them were famous. This personal and social background, of course, had its influence on the trial, although the attornies made no or slight mention of it. They did

not need to, because this was well-known to all. The reputation of the prosecutors and the victim was bad. Even Pres. Jackson was often under severe criticism and censure; and the trial added more. So far the records reveal the Magnesses faced their trial with good reputations. Implications of the murder were, of course, against them; and newspaper reports intimated that they were "knaves and ruffians;" but throughout the whole affair no accusation or proof of such was made, the absence of which in all records speaks much for them. Knowing the strong feeling and prejudice in Bedford County, they asked for a change in venue, which was granted and moved to Williamson County, where the tensions were no less, but the atmosphere clearer and fairer. When the day of trial came they were ready for trial. With the Court of trial also ready and no delays on the part of the prosecution, the stage was set for the trial, which proceeded as related in the next chapter. Also the sponsor of the trial, Pres. Jackson was there and ready, dominating the proceedings. A third party to the suit was also there, the public from all sections of Middle Tennessee. No trial in the history of the State has been more widely attended and watched. It is the law and tradition of the State that all trials are open to the public; and public opinion has its weight in all trials. No one can be secretly tried and convicted, which was true of this trial; but in the beginning public opinion seemed to be against the defense.

CHAPTER IV

The Trial and the Verdict

THE MAGNESSES were held in prison without bail until the day of the trial, which indicated the public attitude toward them, and were given a speedy trial one month afterwards under a change of venue from Bedford County to Williamson County. The village of Franklin and the County surrounding were filled to overflowing with friends of both sides, who remained aloof from each other. There were also curious hangers-on that the sensational draws. Interest and feeling were at the highest pitch; and the tension increased from the beginning; but the Court was strong and orderly and proceeded without trouble. Courts of that day, however, had meager means of records, no shorthand, no typewriters, radios, teletype, etc. so there was preserved little account of the trial itself, such as the taking of testimony, speeches, charge of the jury, etc. Legal jurisprudence is the poorer because of this lack. The trial and speeches by these legal giants would be greatly valued and treasured today. The Court records contain nothing but the barest statement of routine and verdict. We are shut up to the current historians, James and Barton, for brief accounts of the trial as follows:

"Poor Anderson escaped (death at the dinner table) that day; but his time was at hand. No Tennessean, who can remember as far back as 1810, can have forgotten the killing of Patten Anderson and the exciting trial of the murderers. I introduce it here for the sake of the recording of a single remark that Gen. Jackson made in giving his testimony on that occasion; a remark that has clung to the memory of my informant, a lawyer who attended the trial, though he has forgotten almost everything else that was said and done. The two brothers, Andersons, had two enemies, a father and son, named Magness. The feud originated in a transaction in land; the Magnesses, it is said, having sold to the Andersons a forged warrant for a valuable tract. Be that as it may, these four men were inflamed with hatred, two against two. The altercations between them were frequent and bitter; until it seemed as if nothing but blood would appease the wrath that burned in their hearts. They were all to meet at Court on a certain day, when it was hoped, their case would be finally adjudicated; but the matter disposed of forever. A forboding of evil oppressed the mind of Patten Anderson as he rode to the court, and he said to his companion, "If I get safe through today, I will leave the county and go to Illinois, where I can live in peace with my neighbors."

"Near the Court House, while the people were waiting for the arrival of the Judge, Old Magness began to talk to Patten Anderson on the old grievance. Both became excited. Magness said something exceedingly irritating. Anderson, over-come with passions, raised his hand (with a dirk in it, say some) to strike at that moment. Young Magness, who was sitting near watching (Jackson thought) for that very moment to arrive, drew a pistol from his breast and shot Anderson dead. He gave himself up to the authorities, avering that what he had done was to save his father from a deadly stroke.

"General Jackson and the other friends of Anderson, thought they saw in the affair, a calculated, contrived assassination. The trial, which took place in Franklin, in Williamson County, near the center of the State, lasted two weeks, and was attended by a great concourse of people. Franklin, then a frontier village, boasted two small taverns, one of which was occupied by the Jackson party and the Anderson party, and the other by the adherents of the Magnesses. The best lawyers of the State were engaged. Felix Grundy was the one that defended the prisoner. Thomas H. Benton, a young lawyer, was engaged on the side of the prosecution, (John Haywood, chief prosecutor). The feelings of all parties were aroused to the highest pitch of excitement; and the affair seemed to resolve itself into a contest between the partisans and the opponents of General Jackson. One of my informants remembers seeing Gen. Jackson after dinner one day harranging the multitude from the piazza of the tavern with fearful vehemence, the orator being evidently the worse for drink. One of the Magness party, going by at the time, thought proper to indicate his opinion of something that Gen. Jackson said by shrugging his shoulders and saying "Pshaw!" Jackson paused in his speech and looked around for the utterer of the contemptuous interjection, saying, "Who dares to say Pshaw at me. By ———, I'll knock any man's head off, who says Pshaw to me." The offender walked on, and Gen. Jackson finished his speech.

"But this was not the remark for the sole sake of which the Magness story was revived in these pages. In giving his evidence, Gen. Jackson was asked by council, What was the character of Patten Anderson for peaceableness? This was thought to be a home thrust at the witness since every one present knew that the unfortunate Patten was of high temper, which had betrayed him, not un-frequently into "difficulties;" and Gen. Jackson could not deny it. He saw the game, however, in an instant and in an instant was ready with his superb reply. "Sir." said Jackson, with his most Jacksonian look, "My friend, Patten Anderson, was the NATURAL ENEMY OF SCOUNDRELS!"

"Every one drew the desired inference that the natural enemy must ıave had naturally a good many difficulties with the scoundrels.

"What followed this remark is not remembered. The prisoner was :onvicted of manslaughter only and was sentenced to be branded ı the hand (M). The verdict, I have been assured, was milder than t would have been, but for the extraordinary zeal displayed by the 'riends of the deceased to secure a capital conviction."

Parton, Vol. I, page 342-45.

From James:—

"David Magness concluded a long and hitherto an indecisive feud vith Patten Anderson by killing him; and Jackson vowed that the layer of his friend should hang.

"The village of Franklin became a smaller Richmond. Jenkins Whiteides, John Haywood, Felix Grundy and other immortals of the border ıar contending in the *causa celebre*. Jackson roared upon the scene nd, none too steady on his feet, delivered a taproom harrangue, vhich a stranger would have found impossible to associate with a nan who once had sustained with a pistol the prerogatives of the :ourts in Tennessee. Jackson took the stand as a character witness for \nderson. On cross examination alert Felix Grundy, one time to be \ttorney General of the United States, pecked away at the general's ›ortrait of the peace-loving nature of the deceased. Had not Major \nderson frequently been in "difficulties?" Had he not made numerous nemies?

"Sir," quoth Andrew Jackson, "my friend was the NATURAL :NEMY OF SCOUNDRELS!"

Magness (David) received a light sentence for manslaughter; and ackson shook his fist under the nose of one of the jurors."

Marquis James, New Ed., page 139

He had sworn to hang all three of the rascals.

The verdict, which was a virtual acquital, would have been the ›nd of the case; but Pres. Jackson and associates found a way to win. They appealed to the old diabolical law of imprisonment for debt. The expenses of their defense had bankrupted the Magnesses, who ›ould not pay the court cost, $800.00, which was assessed to them, o all three were returned to jail and held in prison for over two 'ears, when they could have been parolled or released by the destitute ›rovision. Jonathan and Perry Green were held for future trial, David ılone having been tried and found guilty of manslaughter, which, ınder the charge of first degree murder, was the equivalent of being reed. A nominal sentence of eleven months imprisonment and a disgraceful brand on his hand. So there was great disappointment on

was the verdict.

the part of the prosecution and little rejoicing on the part of the defense. It was freedom, for which the Magnesses were fighting; but they got only the jail; however it was considered as a great victory for them by the public. Pres. Jackson had sworn eternal vengeance by hanging of all three; and any thing less was rejected as unjust and the cause of anger.

While Pres. Jackson was not accused and under indictment, he himself was on trial. He was unreasonably devoted to his friends and unjustly cruel to his enemies. He was extremely so in this trial, which has been the cause of its being shrouded in oblivion during the past in deference to the memory of a great and good man. But the great should not be immune to wrong and guilt. This trial convicted Pres. Jackson of many wrongs that should be known and acknowledged at least for the good of society as a whole. Even kings need to repent, and I am sure that Pres. Jackson did repent of these wrongs in his old days, which I point out as follows: (1) Vengeance instead of justice; (2) harranging the public to influence a trial; (3) profanity; (4) intolerance of opposition; (5) intimidation of juror by threat of violence, shaking fist in his face; (6) drunkenness, which has been offered as the cause of the other wrongs but justifies none. A change in the code of ethics of that day is also claimed, which is commendable of this age but hardly justifies the old code. While Jackson was a great statesman, he can hardly be classed as a reformer. There were, however, reforms that grew out of this old suit, which will be set forth in the next chapter of The Aftermaths Of The Trial.

The Magnesses were also convicted of some wrongs beyond the indictments of the trial as follows, (1) manslaughter, which is herein acknowledged as a blot on their escutcheon; (2) the carrying of weapons, not that this was unlawful then; but wrong; (3) land hunger, which was common with the pioneers. Covetousness often leads to greater evils. Beyond these wrongs on the part of the Magnesses they seem to have conducted themselves worthily and without reproach. There are few or no lawsuits without wrong on both sides. A participating attorney is often convicted of wrong tactics; but this suit was professionally ethical and held on a high plane. Although Pres. Jackson insisted on Senator Benton's "skining alive" Felix Grundy for pressing Jackson's blunder in declaring that Magnesses "scoundrels;" but Senator Benton declined, saying, "He has us flat on our backs." This was only a minor item in the defense, which he built up as he alone knew how to do. The whole bar in this case were able and ethical, making the case famous. Also the people attending the trial were civil and lawabiding. There was no violence. Court adjourned;

and the people returned to their homes where the trial was discussed pro and con until it became a tradition and finally a legend that sank into the grave of oblivion. What a pity it could not have there remained; but it has had aftermaths for good, which may justify its resurrection.

CHAPTER V

Aftermaths of the Trial

SOME TRIALS are local and temporal and have effect only on the parties and community concerned; and others extend further in their reach and have aftermaths of wide and deep results. This case was not without its aftermaths, the first and most immediate of which was the imprisonment of the Magnesses for debt, which was the beginning of its end. Pres. Jackson was so enraged that he found a way and will to win. At that time Tennessee had a law for imprisonment for debt, which was inherited from the old English Law, which had not been repealed. The trial had bankrupted the Magnesses; attorney fees, court cost ($800.00), etc. had taken their all. The trial had taken two weeks of all-day sessions with scores of witnesses, arguments and with every point of law and every step of the way contested by the shrewdest lawyers that ever faced a bar. The prosecution took advantage of this old law and had the Magnesses returned to prison, which was "the unkindest cut of all." They could have been released under the destitute provision, or hired out to work it out; but the "law exacted its pound of flesh." They had no choice but return to jail and were moved to Nashville for safe keeping.

I never knew until my investigation of this old case that Tennessee ever had such a law, which was a shock to me. They were held in prison for over two years, notwithstanding that they did every thing possible to get released as is seen in the following petitions and acts for release.

To

The Honorable General Assembly Of The State of Tennessee

The Petition of Jonathan Magness humbly sheweth:

That the month of October, 1810 he was indicted by the Grand Jury in the Circuit Court of the County of Bedford for the murder of Patten Anderson and was immediately commited to prison. The cause was removed for trial to the Circuit Court of the County of Williamson and November term of Court, 1810. Your petitioner was ready for his trial and was not tried but committed again to prison. In its May term of 1811 he was again ready for his trial, and the State not being ready, he was (bashd?). In November term of 1811 your petitioner was not ready due to the absence of some material witnesses and was again committed to prison. In May term of 1812 your petitioner was tried when all the witnesses on both sides were

present and was acquitted without the least hesitation on the part of the jury. The nature of the evidence and its utter incompetency to effect a conviction can be stated, your Honors, by Wm. Cannon, one of the members of your honorable body, who was one of the jury. Your petitioner was then committed for costs and unable to pay them then and must suffer imprisonment for life unless he can be allowed the benefit of insolvent debtors' act—and that benefit hath been denied to others in like circumstances by the Circuit Court—the court conceiving that the act did not extend to one imprisoned for costs in Criminal procedure.

Your petitioner hath now suffered imprisonment for 18 months and more. He hath been declared innocent by a respectable jury of his fellow citizens—his health is impaired, his fortune is ruined by the neglect of affairs and the advantages taken of his situation; and his family been plagued into the deepest distress.

In vain hath your petitioner looked to our mild Constitution, which forbids unusual punishment and orders a discharge from imprisonment in case of insolvency. In vain hath he expected relief from the laws in being. He is told that from authority no law in being will afford him relief. Others before him have been imprisoned for costs in criminal cases and though unable to pay them have not suffered imprisonment. If it can not be ascertained under what law they have been released so as to make their cases precedents for that of your petitioner, your Honorable body as guardians of the rights of your fellow citizens cannot be indifferent to the unjust sufferings of one, however, humble his condition may be. Nor can you be regardless of any unconstitutional means which may be resorted to for the infliction of punishment, which the law will not inflict, nor our courts endure.

Under your protection, therefore, your petitioner desires to take refuge and to seek relief against oppression.

May it therefore please your Honorable body to call upon Colonel Cannon and the jailor in Nashville for verification of these facts and provide such relief for your petitioner as his case may seem to require.

Jonathan Magness maketh oath that the facts above stated are true to the best of his knowledge and belief and particularly the fact of his insolvency, for that he is not worth ten dollars in any worldly substance. It is true, he sayeth, that he hath been in possession of a large amount but the same hath been swept away by executions obtained for the most part against his estate since his imprisonment, and he sayeth further that he hath not conveyed any of his property with intent to defraud any of his creditors to whom he is indebted.

N. B. The said Jonathan Magness (takes exceptions?) to the words

of not being worth ten dollars but is perfectly willing to give up to the law and proper authority thereof the whole amount of property now in his hands.

Sworn to and subscribed to before us this the 9th day of Sept. 1812.
Thomas Dillihanty, J.P.
Thomas Williams, J.P.

I found no petition on the part of young Perry Green Magness (15 years of age) for release from prison.

His youth made his imprisonment more despicable and horrible. Revenge instead of mercy had its way. There was no juvenile court then to intercede and save the boy.

The Petition of David Magness from Williamson County

The petition of David Magness humbly sheweth:

That in November term of the year, 1810, he was tried upon an inditement against himself and Jonathan Magness and Perrygreen Magness, for the murder of Patton Anderson and was found guilty of manslaughter and your petitioner was sentenced to eleven months imprisonment and until the costs of prosecution were paid. The eleven months expired in Oct. 1811 and your petitioner being really insolvent and unable to pay the costs, which amount to eight hundred dollars or more and has been since confined in jail. No attempt has been made to hire out your petitioner under the act of 1787, ch. 14, the officer no doubt being satisfied that no person could be found who would pay that sum for him and your petitioner hath applied to the Circuit Court of the County of Davidson and also the Circuit Court of the County of Williamson to be discharged under the law for the relief of insolvent debtors or under any other law which would sanction the proceedings. His application in both instances has been rejected and no expectation remains but that of perpetual imprisonment unless your Honorable body will interpose and save him from it. It is a punishment incompatible with the principles of free government. It is forbidden by our Constitution, Sec. 16 and 18 of the Bill of Rights, and indeed the sentence itself above referred to tho by an ancient English statute, is unprecedented in this country and certainly discountenanced, if not repealed by the true spirit of our republican institutions.

Your petitioner by way of pointing the attention of your Honorable body to the peculiar hardships of the case, would beg leave humbly to ask of all those who heretofore been imprisoned for costs in criminal cases and have been unable to pay them, are they in prison, and why are the unfortunate more severaly punished at this time than formerly? It is impossible that those that are selected to see the Constitution

preserved—its principles fostered and grievances of all sorts removed rom the citizens, can behold without some emotion a case of the omplexion of that which is now presented to them.

Your petitioner is animated with the only hope now left him that he representatives of free men will never endure the adoption into ur system of a mode of punishment which in the worst times of the nost despotic governments hath been deemed the most odious engine f tyranny.

And your petitioner humbly prays, your Honors, to do some act for is relief, which will enable him once more to see his friends, resume is occupation and be relieved and to be released from his present bode of misery.

worn to and subscribed, the 9th of Sept., 1812

Thos. Dillihanty, J.P.

Thomas Williams, J.P.

The above pitiful plea for release from these old barbaric laws vas the latest record of efforts for freedom; but they doubtless made thers, but all in vain. They remained in prison, the victims of hate nd persecution in the name of the law. At this late date we blush with hame at this travesty of freedom, implemented by old cruel laws nherited from the inquisitions of Europe; but, if it had not been for he sacrificial sufferings of The Magnesses and others and for Felix Grundy's pleas for mercy instead of cruelty in this old trial, we might till be under these savage laws. This case marked the first opposition, r breaking point with these old laws; and, though the Magnesses vere not fully relieved ~~from~~ for many years afterwards, they escaped he rope nooses that the prosecutors dangled above their heads hroughout the trial. This ended hanging for small crimes; but the leath sentence for a few highest crimes is still on the statutes. Their ries for help and release and the raised branded hand of David Magness, which stared him in the face until the day of his death, were ffective in doing away with many of these old cruel laws. The Legisature had long been derelict in these reforms.

The Journal of the 1813 Legislature, so far as I could find after areful investigations, gave no report or action on the above petitions, vhich must have been tabled or rejected by default. The law for mprisonment for debt was passed by the Legislature in 1807, Acts Of Tennessee 1807, ch. LXXIII. The 1813 Legislature did nothing toward hanging or repealing any of the State's penal laws, which then included other barbarous penalties such as branding, cropping of the ears, whipping, confinement in the stocks and the pillory, public hanging, etc. which Tennessee inherited from North Carolina and the

Old English law. The humanitarian reform and repeal of Tennessee's penal laws did not begin until 1819, when Gov. McMinn urged the Legislature to repeal these laws, but to no effect. See his Message of that year. He was succeeded by Gov. Wm. Carol, who became the champion of this cause. He was elected on this issue and urged it on every legislature of his successive terms from 1821 to 27 without any change except the repeal of the law of imprisonment for debt in 1823. (See Caruther's Code.) and a reform law for the regulation of jails in 1826, Acts of Tennessee. But Gov. Carol like "Joshua, the son of Nun, never would stop until the work was done," persisted until these laws were finally repealed and more humane penal laws passed. This old trial started this reform of the penal laws by exposing the cruelty and shame of the same; and the repeated petitions of the Magnesses to the Legislature and Gov. Carol's insistence kept the issue alive in the Legislature until reform and relief were secured. Also the appeals of Felix Grundy for mercy and life in this old trial and in other courts all over the State melted the frigidity out of the old laws with his tears and eloquence, all of which combined to make this old suit Tennessee's Celebrated Case.

Reforms come slowly and with difficulty. Whatever is, is right with many people. Tradition and the status quo defy all opposition notwithstanding the glaring wrongs. The pioneer age followed the savage age of the Indians, whose savagery the whites acquired. Human life became a cheap trivial pawn taken for any and all trivial offenses. The pioneers killed for an idle word or a thoughtless act. Duels were the order of the day. Even the leaders in this suit were guilty; but there were no pistols and coffee at the trial; however nearly all carried weapons as did the subjects in this killing, without which the killing would doubtless not have occurred. All this had to be stopped. This old suit was the first step to this end.

God, of course, does not direct history; but he does overrule many events for the good of humanity. This, I think, is clearly true of this suit. Looking back a century and a half, we see many political, social and religious reforms that had their beginning in this suit. The old criminal laws were on trial here and were condemned. Though guilty only of manslaughter, the Magnesses were ruthlessly prosecuted for murder punishable by public hanging, and, if it had not been for Felix Grundy, they doubtless would have been hanged, because the old law was, "He that shedeth man's blood by man shall his blood be shed." Felix Grundy with his eloquence and sympathy was the voice of God crying out against these old cruel barbaric laws such as hanging, branding, imprisonment for debt, whipping, binding in stocks,

etc. Felix Grundy was the advocate in all the courts of the South and North, defending the accused and losing only one case. In one case he broke down and wept; and the Judge had to adjourn court until he recovered his control. He was a Christian apostle pleading for mercy instead of cruel law. Because the Magnesses were bankrupt, they did not escape imprisonment for debt and branding; but with the Magnesses as examples and Felix Grundy as an advocate and Gov. Carol as lawmaker, these laws were soon repealed. Two years after the suit the Magnesses in prison petitioned the Legislature for repeal of these laws. Also the Press, especially the Nashville Clarion and Gazette, was active and persistent in their repeal. All were not repealed until about 1827; but in this suit the ice and cruelty of the old laws were challenged and broken by these reformers. The crowds were there and heard Grundy blast these laws from the code. This suit was in mid-stream of these reforms, before which the old laws held sway, and after which the more humane laws were passed, which made it an epoch-making case.

Furthermore, before and after this suit there were great moral changes in society. From 1800 to 1812 society tolerated and practiced many customs such as fighting, drinking, gambling, dueling, profanity, etc., which are socially tabooed today and religiously forbidden; but after this time we read little of these un-social and unethical deeds. Even Pres. Jackson and his associates, who were great sinners in these respects, were more circumspect and moderate in these respects. You can hardly imagine a court tolerating a drunk witness, a threat to a juror or a sectional gathering having such brawls as at Clover Bottom.

But these reforms were not altogether due to political and social reformers. There were great religious reformers and advocates at work in the State and nation such as Lorenza Dow and Bishop Asbury, of the Methodist Church, Thomas Craighead, of the Presbyterian Church, McCready, of the Cumberland Presbyterian Church, Barton W. Stone and the Campbells, of the Christian Church, and Morton Howell, of the Baptist Church et al. Civil and social laws can not effect lasting reforms. Back of these there must be religion. Before his death Pres. Jackson became a devout Christian worker; and the Magnesses, as set forth in the next chapter, became religious leaders.

At least a century has to pass before we can evaluate an event. Sometimes the most insignificant turns out to be the most important; and the actors do not realize the full significance of their parts, which was doubtless true of this case; but the participants in this case were great and powerful and set for results. Doubtless they thought little or nothing of its future results and fought only for the immediate ends; but

God undoubtedly had a purpose in bringing these great men together for the future good of the race. They were able and celebrated lawyers before this trial and after it they went on to larger victories and greater rewards; and today they remain at the top of the legal profession. All of them became great national statesmen in the national senate, rendering distinguished service there and achieving great honors throughout the nation. Individually they have been memorialized in biographies and monuments. Senator Benton recently in a full large book by Wm. N. Chambers, containing great praise of Senator Benton and great disparagement and misrepresentation of the Magnesses, whom he failed to investigate before writing. At least, he would have known then that they were not "knaves, ruffians and scoundrels."

Thomas H. Benton, whose great life Mr. Chambers has written, and who was one of the prosecutors of the Magnesses, knew that this accusation was not true, because he stated to Pres. Jackson that this accusation "puts us on our backs;" and he refused to use it against the defense. It proved to be a boomerang. Jackson himself realized that it was a blunder on his part and told Mr. Benton to "skin Felix Grundy alive" for taking advantage of it. The silence of John Haywood on it showed his shame and handicap, or at least he would blush with shame if he knew that The Historical Quarterly, the front page of which bears his likeness, contains such a charge or implication. He was not only a great lawyer but a great historian, who sponsored and wrote the early history of Tennessee, founding it on truth and right. The trial's public also resented this stroke below the belt in fair trials. Besides the Magnesses were not tried for rascality but for murder and were cleared of both charges. It shows how far estray hate, anger and whiskey can lead a great man. "There abideth three great evils, anger, hate and drunkenness, and the greatest of these is drunkenness."

There were many long range benefits that had their beginnings in this old case, which perhaps were not purposed by the participants; but they are clear to interpreters of history today. In comparing this pioneer age with today many gains are evident, some of which were partly due to this old case. It is still Tennessee's Celebrated case with its celebrated participants, its celebrated cause, the value and penalty of human life, its many celebrated reforms, which stemmed from this old case and exposed many bad laws calling for legal, moral and ethical changes, which this old trial brought to light; and the people carried away in their minds and hearts. While it was associated with much evil, the evil was discredited; and the good was impressed upon the future. One significant result of this old trial for good was the break

with Pres. Jackson in his political and judicial control. During his administration as Supreme Judge he ruled the court with a brace of pistols, which might have been necessary in that pioneer age; but he did not dominate this court, which made him furious. His own prosecutors refused to carry out his orders; and shaking his fist in the face of the jury had no effect on the jury. It might have been the first free jury; but any way the time had come to break with his iron rule. Doubtless this old trial was first to do so. Let the shame of this old trial be forgiven and forgotten; but its pride and celebrity be remembered and memorialized as Tennessee's Celebrated Case. When you compare conditions then and now in the light of this full review, it is clear that this old case has been largely reversed by the light of history.

As shown by the records as herein quoted, history has reversed many accounts and aspects of this old case. (1) It has reversed the law itself, mercy instead of cruelty, freedom and rehabilitation instead of imprisonment. (2) The Magnesses were bankrupted by the trial and imprisoned for debt for more than three years; but after being released they recovered their fortunes; whereas the Jacksons and Andersons spent all and died destitute. (3) The Jacksons left no blood descendents; whereas the Magnesses left numberless families of useful and prosperous citizens. Whether or not this is a case of the survival of the fittest, the descendents of the Magnesses are many and prominent today. (4) While Pres. Jackson has maintained and increased his political followers, they are embarrassed by his conduct such as in this old trial. (5) While the Magnesses never sought office, they have been the sponsors of good government; whereas the Jacksons and Andersons stood high officially but low morally, being sporting gambling drinking addicts; whereas the Magnesses have comparatively clean records and lives. (6) The Magnesses were martyrs of the old cruel English laws, which they helped to repeal; whereas Jackson and the Andersons were advocates of the same. While all comparisons are more or less odious; yet history often rises up out of the past reversing and correcting both the past and the present. So be it in this case.

CHAPTER VI

The Succeeding Generations

THE burying and the forgetting of this old suit seems to have been the attitude and purpose of the succeeding generations which was soon well and fully done; and it would have so remained had it not been for recent publication of it. Gen. Jackson never spoke of it in his records; and it was never known in the records and traditions of the Magnesses. A hundred and fifty years was long enough for it to be forgotten by all. But it is not just to the Jacksons nor the Magnesses to close this account with this trial, which was the nadir of both families, so I continue with sketches of their afterwards lives.

Gen. Jackson continued to be the dominent character in all relationships, accomplishing his ends over all opposition, with which he was never without. He soon went into the larger field of national politics and war, where he became the head General of the 1812 war; which paved his way to the Presidency. His history from then to his death is an open book containing many great commendable achievements along with some things, like the old trial, to his discredit. His final end at the Hermitage was repentent, peaceful, worthy and befitting the great man that he was, who was the leading factor in Tennessee's Celebrated Case.

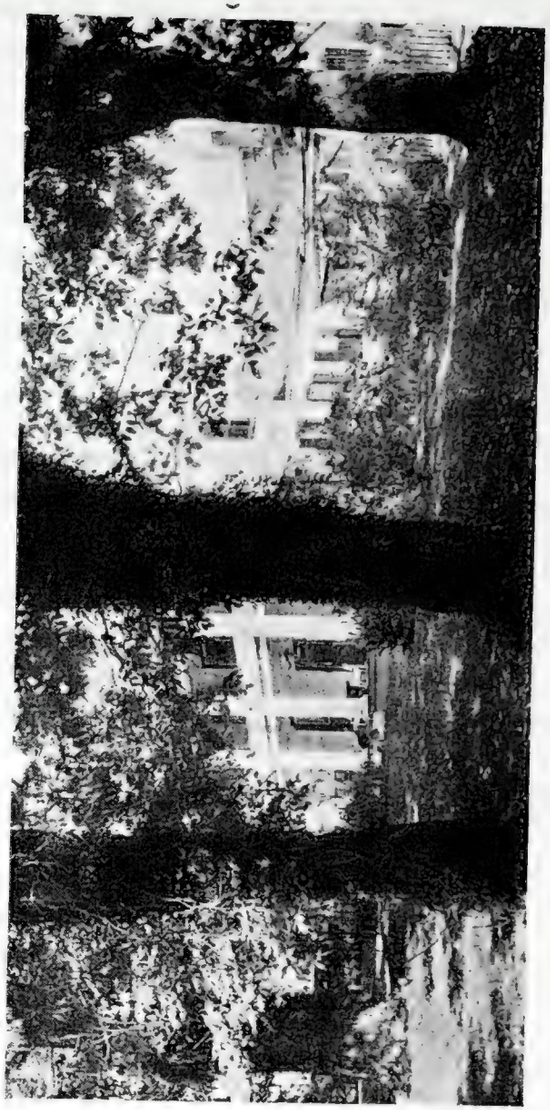
His adopted descendents were disappointing to him as to others. There was nothing wicked or vicious in them, just incompetent. They finally spent and lost his great wealth of land and money in Tennessee and Mississippi and returned to Tennessee bankrupt. The citizens resupplied them, opened up and furnished the Hermitage for them to live in. They all went to their graves in need.

Of course, Pres. Jackson was in no way responsible for the fate of his family. In fact, he did his best in providing for and directing his large family both financially and morally. His letters show deep concern and wisdom to this end. But the old saying, "It takes only one generation for the top rail to get on the bottom," was true of the Jacksons; whereas on the other hand the Magnesses climbed to the top in one generation and have remained there ever since. The descendents of Perry Green Magness today are among the most prosperous and influential in Middle Tennessee. While this is largely due to individual and family effort and worth, history has a way of reversing things to balance right and wrong, justice and injustice. The reversal of this old case may be a further proof of this. The following chapters are devoted to their subsequent history.

Notwithstanding this crushing lawsuit and their consequent bankruptcy and imprisonment, the Magnesses did not sink into destitution and oblivion as Mr. Chandler must have supposed; but they took up their burdens and responsibilities of life and forged their way to honor and success and left a noble heritage in descendants and possessions. If Perry Green Magness, the fourteen year old boy, who was accused of murder and published as guilty, had been destroyed or gone down the drain of humanity, what a loss to Middle Tennessee that would have been, as his subsequent history shows! In many cases history shows us that we know little of the present and nothing of the future; and it takes us a long time to learn from the past.

Jonathan, the oldest brother, after his release from prison moved with his family to Independence County, Arkansas, where he began life over again. Little is known of his life here. In these early days communication was difficult and seldom, so the families finally lost touch with each other; however, descendents of the family are still there. One, a large manufacturer, lives in Nashville, Tennessee. David, the brother that was found guilty of manslaughter and branded, returned to North Carolina, where he dropped out of the records, doubtless by death from a broken life. Perry Green the youngest brother, 14 years of age, went to the part of Warren County, Tennessee, that is now DeKalb County, where he had relatives, the Cantrells and Potters, who moved with his family from North Carolina; and they intermarried both in North Carolina and Tennessee. Although a penniless frustrated boy he took up life with zest and purpose. He married Mary Cantrell in 1815, built his house on Sink Creek in one of the poorest sections of the State and founded a life-time home with wisdom and hard work. One would have thought that such a tragic experience as the trial would have broken his spirit and embittered and wrecked his life; but it seemed to have strengthened him and made him more determined.

From this union and home came a large family, twelve children, namely, Bethel, Sarah, Mary, Connie, Elizabeth, Martha, Harriette, Carlotte, William Hall, Richard, Perry and Cain, who became the business and religious leaders of that whole section, and whose children and grandchildren dominate the interests of Middle Tennessee today as bankers, lawyers, doctors, judges, preachers, mine operators, merchants, etc., in fact, every line of business, education and religion. It can be truly said that more business leaders and more money have come from Perry Green Magness' family than any other pioneer family of Middle Tennessee. He began on the poorest of farms, added the tanning business, then merchandising and finally banking with success



Magness Home, McMinnville, Tenn.

in all.

But material success was not all of his achievement. He built on his farm a church that became a noted institution. With the aid of his son, Perry Green, Jr., one of the Baptist leaders of the State, he established, promoted and organized the Bildad Communion and Foot-washing May Meeting, which became the greatest religious institution of that whole section of the State, attended by thousands. This meeting was so much a part of his life that I quote at length from his biography, The House of Magness, portraying this day.

"He was intensely religious of the Calvanistic type as were most of those that came out of the Carolinas, who were either Presbyterian or Primitive Baptists. Perry Green Magness belonged to the latter communion, who were ultra austere, Puritanic, dogmatic and exclusive. He was very zealous and active in his church, being one of the organizers and builders of the Bildad Church, which was built on his land a few hundred yards West of his home. No one seems to know why the church was named Bildad after one of Job's friends. Possibly because of its suggestiveness of friendship; however the old Primitive Baptists were not very socially minded but rugged individualists, who believed in standing on their own rights, liberties and responsibilities and letting every one else do the same. However, Bildad Church became for one day in the year the social and religious center of the whole Highland Rim. The May meeting for communion and foot-washing was attended by the majority of the people of the surrounding counties of Warren, White, DeKalb and Cannon. The crowds were estimated in the thousands. Only the faithful members went into the Church, which was filled to overflowing with worshippers, while thousands milled around in the surrounding grove, visiting with friends, relatives and acquaintances. It was in reality more of a sectional home-coming, social picnic and reunion than a religious meeting. It was a red-letter day for sweethearts and prospectors in the matrimonial parade. No young man failed to escort his belle or fiancee to Bildad in the best style he could command. If he had failed her on that day, his case would have been hopeless, because no young lady would miss this opportunity of displaying her charms before the un-attached males of the entire province. Dressed in the best and newest raiment, they came in buggies, carriages, wagons, horseback, footback, carrying their shoes within sight of the Church. It was a great day for friendship and courtship. Many matrimonial battles were won and lost on this day, betrothels were made and sealed, and occasionally the wedding ceremony was held under the overhanging bowers of the spreading trees. It was not only a feast for the soul but also for the body.

housewives brought large baskets containing every good thing at known to that section and the art of science of cooking of that , which were spread upon the ground in the shade of the trees amily or social groups. While the youths of both sexes, displayed paraded their social and physical charms, the matrons exhibited r culinary achievements. More and better food never graced and ;fied the hunger of man.

While the social features over-shadowed the religious, this was forgotten or neglected. Inside the Church were the most sincere solemn services, consisting of sermons by the greatest and wisest he faith, singing of the old songs of Zion, numerous prayers and eriences, the Lord's Supper, followed, as in the Scriptures, by foot-;hing, the crowning sacrament of the day. Immersion was the faith practice of the church but I found no observance of it on this day. s was the day for saints and not for sinners. Many went in the rch through curiosity to see, to them, the strange sacraments, but y left impressed by the humility, beauty and sacredness of the rship. The entire day was a feast of good things both for the body l the soul. This annual day of May Meeting has long since passed h the changes of time and faith; but I can not help feeling that a ry passed from the earth with the ending of this May Meeting Day." There was an occasional rumor of some drinking on the grounds, ich was not so disreputable then as now. In fact, many old Baptist mes were known to have a jug in the closet for refreshment and od fellowship. It is quite likely that some roudies and pleasure kers surreptitiously brought along a flask; and there were a few ses of taking a little too much, which showed to their discredit. It difficult to keep evil even out of a church gathering. I give herein e case to complete the picture of the day. This, however, did not cur at Bildad Church but at a sister Church in Tennessee. May eetings were the custom of Baptist Churches everywhere; and the ual was about the same and crowds were large. I can not vouch fe for the facts in this case; but a Governor of the State and two stinguished lawyers, who told the case to me, can. All names are nitted but available to any one interested.

A certain young lawyer and friends attended the sectional May eeting and brought along some liquor for refreshment, which they mpled during the day; and by afternoon it was showing on them to eir discredit. The young lawyer meandered down around the Church led with worshippers, and on looking in at the back door saw an d Aunt sitting near the back. He tipped in to speak to her, one of e faithful devoted members, who was rejoiced to see him. She was

spiritually happy and exalted and embraced him, saying, "You've come just at the right time. Have you ever joined the church?" He replied, "No. I haven't. But I am going to. The Old Baptist Church is the only church on earth worth joining." She insisted and pressed him to do so then. No, he was not quite ready yet. There was no vacant seat; but a neighbor, overhearing the conversation and seeing that the young man's good feelings were not due to religious ecstasy, spoke to him, telling him that they had a number to receive into the Church and for him to wait outside the church; and he would notify him when to come in. Later after waiting for sometime, thinking that he would go on away, they sent out a messenger, who, leading him off behind a nearby tree, informed him, "There is no vacancy in the church today." Ever afterwards when a group got together someone asked him, "Have you ever joined the Old Baptist Church?" He finally threatened the Governor, if he ever told the story again, that he would have him unseated. It is repeated here only to complete the May Meeting Day. In fact, the Old Primtive Baptists were very particular and strict on taking people into the church, requiring a religious experience and a unanimous vote to receive the member. They were likewise strict in their discipline of members. Violaters of church rules and morality were called before the elders for trial; and, if found guilty, they were withdrawn from. One member, however, had the wit to get ahead of them. At the conclusion of the trial and verdict he arose and said, "Now you have withdrawn from me so I am the only member of this church left, so you all get out of here." In another case a young man was on trial for dancing. He was asked why he did so. He replied, "Well, the Bible says that you just as well do a thing as to want to. I wanted to dance so I did." But nothing swerved the Old Baptists from what they thought was right and their duty. They delivered him over to Satan for the destruction of the flesh.

When Perry Green Magness died in 1884 at the age of 88, it was said that he left over six hundred descendents, which number has been greatly increased since then. His succeeding families have been large and prolific, populating much of Middle Tennessee. They have been not only numerous but useful, prominent and influential. It is claimed by those that are familiar with the history of this family that more business and professional leaders in Middle Tennessee have come from these families than any other pioneer family. There are now in Nashville and Middle Tennessee many wealthy executive leaders in almost every branch of business besides those who have gone elsewhere. The Magness family, however, have been chiefly bankers. Beginning in Smithville and extending to McMinnville, Tullahoma and

Nashville, they have made a noted career in banking investments, insurance, mining, merchandising and many other lines of business. There are few wearing the name today; but his blood descendants are a multitude, namely, the Smallmans, the Cowdens, the Wests, the Potters, the Raglands, the Womacks, the Webbs, the Cantrells, the Youngbloods, the Odums and many others that honor Perry Green Magness as their pioneer ancestor and resent the blotting of his name in Tennessee history, believing that "A good name is rather to be chosen than great riches." However if millionnaires of this section were known and counted, that is, those who have achieved millions, the descendents of Perry Green Magness, I believe, would lead. But why this boasting, which is without their knowledge or approval? I make them for the sole reason of showing that history often reverses and corrects injustices of the past, which people have suffered. In the case of the Magnesses, this, I think, is clearly seen. The Magnesses have risen from an unjust fate, imposed by the old law of imprisonment for debt, to the financial and business leadership of Middle Tennessee, showing that history has a way of correcting errors of the past. Call it Fate, fortune, Providence or the ever-watchful eye of man, it is a fact. Man is the only creature of God that is interested in his history; and he wants a true and helpful history. Any one that has no interest in his past has little or no interest in his future. I find, however, that this is true of many people today. The pride of ancestry does not exist in many families; but individually they are full of vain pride. The Chinese worship their ancestors; whereas Americans are either ashamed or indifferent toward them. The grave marks the end of family ties, and the tracing and maintaining a line for a century and a half, when most of our ancestors came to this country, is undesirable and unthinkable. The Magnesses had a noble ancestry when they came to this State; and Perry Green Magness in his old age was known as Grand-sire because of his noble family. He was a grand sire indeed. His descendants have grown into a large tribe containing many leaders of influence, prestige, authority and riches. Five generations reach from this old lawsuit, which was thought to be the end of the Magnesses but proved to be the beginning of a noble line of descendants. I am glad to have had a part in removing this blot from their escutcheon, to which this publication is dedicated.

CHAPTER VII

The Last Generation of Magnesses

The Family of William Hall Magness

Though this family was one of the smallest of the Magness families in number, it was the largest in achievement. It was given its start and impetus by its founder, the father, William Hall Magness, who digged deep and placed it on the solid enduring rocks of industry, intelligence, thrift, honesty, and all such lasting traits of character. For his day and opportunities he was a notable person. We quote the following biographical sketch of his life from Goodspeed's History of Tennessee (1887):

"William Hall Magness was born in Warren County, Feb. 15, 1824. Being reared on a farm, his education was limited to the meager advantages of the free schools. At twenty he was engaged as a salesman in a drygoods store in Smithville, DeKalb County, Tenn. in 1845 he commenced business at the same place on his own account, continuing at this with much success until 1881, when he moved to McMinnville. With profits of his trade together with valuable tanning interests he was able to invest largely in the stock of several of the leading banks in the State. In 1874 he established the National Bank of McMinnville. At the organization of which he was elected president, which position he has held with honor ever since. On the 25th of June, 1845, he was married to Miss Elizabeth Jane West, of DeKalb County; and it is to her habits of industry, prudence, and economy that he attributes much of his success. There were born to them seven children, four of whom are now living. Strict habits of exercise and temperance have given him a robust constitution, and his general health is good. His sons are connected with the National Bank of McMinnville, W. H., Jr., being assistant cashier and Edgar bookkeeper. The father of our subject, (Perry Green Magness) was born in Spartanburg, S.C. in 1796. He moved to Warren County when twelve years of age; and at eighteen he married Mary Cantrell. The result of the union was twelve children. He was a farmer, merchant, and trader and received a fair competence of this world's goods. He was remarkable for his unexampled energy and perseverance. He was a thorough Democrat and a strict member of the Baptist Church. His death occurred March 1st, 1884. It was quite a pleasure to this exemplary man to watch in his old age the multiplication and growth of the large family he had founded; and it was truly an object of gratification, for there were born in direct line from him over 600

hildren, grand children and great grand children. W. H. Magness, ne of his sons, is a Democrat in politics and influential member of he Missionary Baptist Church. He is also a Past Master Mason. Ie wishes particularly to exhort the young men to be temperate. 'hen he thinks it will be revealed to them more clearly the wise vords, 'Do justice and love mercy.'"

The following is taken from his will, which further reveals the nan. After providing for an equal and wise division of his property etween his children and safe-guarding the same, he counsels thus: "I want my three other children, J. E. Magness, Wm. Harrison, nd Eddy to have each a good bedstead and necessary bed-clothing. nd as my boys, Willie and Eddy, should they die without child or hildren and leave any portion of my estate, it is my desire that aid property or means revert and go back to my estate and be ivided with any living child or children; and, if none, then to my randchildren. Now, my dear wife and children, I exhort you to ave no lawing or hard feeling among yourselves, to live as peaceful nd quiet as you can with all men and more particularly with your- elves, to give your souls to God, your Creator, and to one another and ve soberly and righteously in this present world and to be certain prepare for death while living and young and in health, let that e the first great care."

His will reveals his devotion to his family and his intense religious ature. He was an ideal husband and father, never cross and unkind any member of the family, such a family man as the homes of day greatly need. Although devoted to his family and always active his business, he was none the less active and zealous in his re- gion. He was a strict Baptist in faith and fellowship and somewhat ectarian in his views and associations. According to a statement of member of his family, "He was liberal in everything except religion. Ie was too intense in his faith and loyalty to his convictions to make ny concessions or compromises." But this was largely the religious ttitude of his day, and this age might be the better for a more in- nse religious faith and convictions.

After the death of his wife in 1887 his life was clouded and was on followed by a stroke of paralysis that made him almost helpless nd finally ended his life. He is deserving of a greater tribute than am able to pay him here. He was one of the wise and true builders American civilization, to whom all succeeding generations owe uch. He lived in a small world, but made that small world better y having lived in it. He stood for and practiced high ideals in the ome, business, and church, and we honor his name for his noble life

and character.

His oldest daughter, Cordelia, married Judge M. D. Smallman, who for many years was circuit judge of that district and was deservedly popular and loved by all that knew him. Mrs. Smallman died in middle life, but Judge Smallman lived to a ripe old age, nearly ninety-one. He was a bright, cheerful, fun-loving, story-telling character, yet a wise, just, merciful, and dignified judge, when the occasion called for an official attitude. Like Governor Bob Taylor he joked and played his way into the hearts and lives of the people, and as a political candidate on the stump he was an invincible campaigner, for whom the people shouted and voted. He is deserving of a much longer sketch; but, not being a Magness except by marriage, he does not come within the scope of this treatise. Judge and Mrs. Smallman had five children, four of whom lived to be grown and married, namely: Lilian, who married John B. Cowden, whose children are Charles Magness, John Smallman, and Frederic Eugene; Fred, who married Robie Caldwell, no children; Ernest, who married Annie McIntosh, one son, Ernest, Jr., and John, who married Nell Crowley, no children.

Ella Magness, the second daughter of Wm. Hall Magness, was an interesting, vivacious woman, who loved the society of friends and acquaintances and was a social favorite in a large social circle of her day. She married Frank Simms, of California, where she lived during her married life and died there. During the latter years of her life she was a great sufferer of arthritis, of which she finally died; however, she did not allow this terrible malady to darken and embitter her life.

Edgar Ewing Magness was the youngest son of William Hall Magness. He was educated in the schools of Smithville and McMinnville and Winchester Normal College. After his graduation there he went to Harvard to complete his education, but before finishing he was called home on account of his father's death and never returned but entered business, that of banking. While a young man he had been employed in his father's bank as bookkeeper; but soon after his father's death he went to Attalla, Alabama, and opened a bank of his own, which he conducted for nine years with much success and profit. He was then offered the position of cashier of the City Savings Bank, of Nashville, which he accepted and moved to Nashville. After a few years with this bank he organized and started his own bank, the State Bank and Trust Company, and later the Bank of West Nashville, both of which banks he headed and largely owned until his death, after which the State Bank and Trust Co. was merged with

the Commerce Union Bank. These banks did a large and profitable business with depositors and borrowers of small means, holding the entire confidence of their patrons, which was largely due to their president, who gave them his personal attention and management. In addition to his banking interests he had large real estate holdings in and around Nashville. He was an indefatigable worker, personally looking after his large interests in the smallest details. Although he started with small means and died young, he accumulated a large fortune with no doubtful or bad investments. In fact, he was a genius in making and saving money. He had one eccentricity, that of wearing old shabby clothes, which made him appear miserly and unconventional, which worried his friends and associates but was of little concern to him.

Although he gave his life to the making and saving of money, apparently money was the least of his thoughts and interests. Other things claimed his deepest interest. After he left the bank in the afternoon he could hardly be led into a conversation on money, but he would talk to you by the hour about books, literature, art, music, birds, wild flowers, wild life, and nature in general and detail. To illustrate, I quote from a feature article written by him for the Nashville Banner on "The Beloved Hills," as follows:

"Although a little late, April 14, was the first opportunity I had for visiting my beloved hills. On the way out I had already begun to see their dim outlines, the purple and pink redbud blossoms breaking in and out among the sombre cedars, when an acquaintance stopped me and began very seriously to discuss the financial situation. He was quite incredulous when I told him I had no financial problems today, and that I was quite incompetent to answer a single business question. This was to be a day of joy where nothing but the beautiful might find place, where perfumed winds, blue and gray mists, green and pink colors, minor chords and choric melodies present to the mind a series of pictures just a little richer and brighter than the objects themselves really are."

Mr. Magness took great interest and pleasure in the observation and study of nature. He usually lived out in the country near the city on one of his farms, riding in and out daily on horseback or in buggy, and frequently walking through the fields. He was one of the closest students of nature that I have known. He spent most of his afternoons and mornings tramping through fields and woods, observing and studying birds, insects, wild flowers, and wild and plant life in general and detail; nothing in nature missed his observing eyes. He knew all the birds and flowers by name and held constant communion

with them.

He was also a wide and thoughtful reader of books both in English and French. The characters of all the classics were his intimate friends; and he delighted to discuss them with appreciative readers. He was not only a reader of books but also a writer of rare talent. His nature stories, which appeared frequently as feature stories in the Nashville papers, were highly interesting and informing. His book, Tramp Tales through Europe, abounds in the finest of descriptions and interesting experiences which are vividly and effectively portrayed. He tramped through central and southern Europe and wrote this travelogue as he went. His closely observing and appreciative eyes missed nothing of interest and value, all of which he wrote down with rare skill and interest. His accounts of the fine arts in Europe, painting, sculpture, music, etc., show him to have had a true understanding and appreciation of everything artistic and beautiful. He had the sense and taste of a real art critic, and he occasionally attempted the poetic himself, writing a few poems of considerable merit.

Although he was a close student of nature, books, the arts, etc., he was in no sense a recluse. He was socially minded and sought and made many close intimate friends. He was a good conversationalist and loved the fellowship of congenial souls. He was quiet and dignified always, yet fully enjoying the humorous. Although he never married, he was rarely without an ardent love affair, barely missing the matrimonial altar in many cases.

One of the finest things about him was his appreciation and love of his relatives, both rich and poor. He never quarreled and rarely criticized them. A personal letter is perhaps the best revelation of the man. He was a great letter writer, one of which to his niece is as follows:

Cherry Blossom Spring,
Nashville.

DEAREST LIL:

Your letter with its momentous news gave me great pleasure. I could not wish for a greater event in our family. It will rejuvinate it and bring smiles into it once again. We have needed baby laughter in our sombre rooms—not to speak of baby cries. I hope he won't cry much and that his name or part of it will be Edgar. If its a boy, I will get him a pony; or, if a girl, I will write her a poem.

I am glad that you will be here so we can look after you, and I shall be glad if I can add something to your comfort.

Tell John I have just seen the lovely Blackburnian warbler which has already begun its journey South. I wish he could be out with me

here to watch the other birds coming in. We cut down a bee tree last Saturday night and got thirty or forty pounds of honey. It was very sweet and had a fine flavor. I hate very much to leave this place (now the Overall Farm on the Brick Church Pike). It has so many attractions; and if I only had some one to look after it I should not have wanted to sell it. No doubt John is still better and will get strong now very quickly and we shall all be glad when he gets around again.

With much love,
EDGAR.

He was cheerful and optimistic, notwithstanding his physical ills, of which he rarely ever spoke. He suffered long and much of a stomach trouble, which finally became cancerous, ending his life while on a trip through the far west for pleasure and health. He died as he had lived—unperturbed. Without notifying any one of his condition and after paying his hotel and doctor's bills and making all arrangements with the undertaker to ship his body back home, he passed quietly from this world into the next.

We come now to the last person of this historical sketch of the Magness family, which brings us down to the present. William Harrison Magness, born in Smithville in 1865 and died in Nashville in 1936, was the last of his immediate family, whose genealogy and history are herein outlined. He grew to manhood in Smithville and McMinnville and was educated in the schools of these places and Winchester Normal College. He was a semi-invalid all his life, never robust and strong but never seriously sick; however, by fostering his health and strength he lived to a near old age. He lived very carefully and correctly. In fact, he was as systematic in his living as he was in his business, having a certain time and place for everything in his life and business. He had no business of his own but shared in the business of hundreds of others. He was an investor of capital in which he was eminently successful, being worth over a million at the time of his death. He studied his investments as lawyers study their cases, and his judgment was almost unerring. He knew when to buy and sell as few do. When banks were failing and fortunes falling during 1929-32, he lost very little. In fact, he profited during the depression, having sold at the peak and rebought at the low tide. He left his large estate in such guilt-edged and liquid condition that it could be profitably liquidated in a week's time.

Aside from his financial affairs he had few interests in life. He took great interest in his home in McMinnville (see picture), where he lived during the spring, summer, and fall, spending his winters in

Nashville at the Maxwell House. Being a bachelor, he lived largely to himself and seemed to like it, saying often that he enjoyed the pleasures of solitude. He lived a secluded life, that of a philosopher in quiet study and contemplation upon the economic, social, and political problems of humanity, however, only as an observer of these things, taking little or no active part in current affairs. His views on all subjects were very frank and pronounced and somewhat cynical as to modern life and trends. To those that did not know him well he appeared to be an aristocratic exclusive hermit, but in reality he was very democratic and social when contacted. He lived quietly and simply, never owning an automobile, radio, or any of the modern conveniences and luxuries. He had everything that he wanted, but he wanted very little. He hated radios, telephones, and buses and prided himself in still belonging to the train and horse-and-buggy age. Aside from his smoking of a few cigars he had no expensive habits or hobbies. His needs and tastes were few and modest with the exception of bright red ties and large flaming diamonds. Though not a handsome man, he was imposing in appearance, tall, slender, serious, dignified, and attracted marked attention wherever he went. Although of pure Anglo-Saxon stock, he had the appearance of a foreigner of Latin extraction, so much so that he was called "the Duke" among his intimates, a title which he well deserved, because he never descended below the plane and attitude of a duke. In life and character he was a strict Puritan, living a very correct life himself and demanding the same of others. His worst fault grew out of his Puritanism, that is, he was a severe critic. He did not spare his withering rebukes, and those nearest to him suffered most. He was rather pessimistic in his attitudes, but this was largely due to his bad digestion and neuralgic condition, from which he suffered much. He had a phobia of colds, keeping his head covered, always wearing a hat out of doors and a black fez within. He lived and died a bachelor, having had few serious love affairs; however, he was very amenable to feminine flattery and pursuit, from which he barely escaped once or twice. During his early manhood he was a wide traveler and tourist in this and all foreign countries.

His fatal sickness was heart trouble, which he did not suspect that he had until the last week of his life, dying of a third attack at St. Thomas Hospital, Nashville. He left his financial house in order, leaving a will with minute directions for the disposition of his estate. After bequeaths to a few of his relatives and many of his friends, he made large gifts to the Salvation Army, the Magness Memorial Library, McMinnville; the Home for the Aged and Indigent, Mc-

Minnville; Baptist Church, McMinnville; Madison Sanitarium, Nashville; and Cumberland Mountain School, Crossville, Tennessee. The will reveals the man, showing the persons and causes of his deepest interests. He was buried in McMinnville on the family lot where lie the other members of his family. His funeral was conducted by Judge John H. DeWitt, of the Tennessee Court of Appeals, who spoke as follows:

"Our departed and lamented friend would not have wanted us to speak of him in furlsome words; for he was an unpretentious man, a lover of the simple life, who had the genuine, fundamental virtues which gave the real satisfactions in life. And yet it is hard to express a proper appreciation of his character without the use of adequate language. His conception of life and duty was so true, so sincere, so wholesome, that it should be remembered for emulation. His soul was honest in motive, charitable in impulse, modest in the unostentatious desire to be helpful to others without letting one hand know what good the other was doing. Mr. Magness was a believer in the principles of the Christian religion, although he never united with any religious denomination. He believed that life lived according to Christian teaching afforded the very best means of attaining and enjoying the happiness and comfort for which the hearts of mortals yearn.

"Mr. Magness was a great citizen not only because of his fine character but because of his contributions which he made for the good of the community. It is befitting that these obsequies are being held in the beautiful Library and Community House, which he built and dedicated to the people of Warren County. It was his continuing joy to see it so richly serve the needs and minister to the pleasure of all of the people,—helping the distressed, bringing light and inspiration to minds and souls whenever they would come. He gave liberally to its maintenance. The work will go on through the generations to lend help and comfort and lift up the ideals and aspirations of all who will partake of the fruits of his generous kindness. He will be remembered for his philanthropies, for his fine example of giving for the good of others. There is, indeed, a sort of earthly immortality, which is the memory of a good and useful man, the influence of his noble character and the effects of his good deeds as transmitted from one generation to another. Such a character and life deserves indeed to be remembered. He did not parade his virtues and his sympathies, but they were known well to those who knew him or to those who were benefited by them. He was independent and positive in his convictions. He never cringed to those in power nor compromised

the principles according to which he had tried to live. He did not strive for popularity nor seek to become familiar with all men. But he enjoyed the respect and confidence of all that knew him or knew of him. It is integrity of mind and heart and the exhibition of it in all the daily affairs of life that alone counts at last in the sight of God and the estimation of one's fellowbeings. To such living our friend added the culture of a good education, extensive travel and reading, and the increasing strength of a sound study and realization of the complex problems of individual living and social progress. His philosophy of life was based on the stable foundations of truth and simple virtues. He had many fears for the future of our country, but he realized that he could not stay here to see much of that future. He passed away unexpectedly 'the memory of a cloudless air, the conscience as a sea at rest.' And so his memory must and will be cherished. His example of upright living will be impressive. This is the sincere expression of one who knew him well through many years.

JOHN H. DEWITT."

With this biographical sketch of the family of William Hall Magness, who were the last of the Tennessee Magnesses to wear the name, I close this review of Tennessee's Celebrated Case, which, if they ever knew of it, they never mentioned it. The following are their only living descendants, namely, Ernest Smallman III, Elizabeth Ann Smallman and William Magness Smallman, the children of Mrs. Josephene and Ernest Smallman II (dec.); and the children of Mrs. Lilian Cowden (dec.) and the author, namely, Charles Magness Cowden, whose children are Lilian and Clare John Smallman Cowden, whose children are James Edgar, and Eugene Brandon; and Dr. Frederic E. Cowden, whose children are Frederic, Louise and Mary, who, I hope, will cherish and preserve the memory of the above, who have been our great benefactors, in appreciation of which this book is written and dedicated, the expense of which is shared by the descendants of Perry Green Magness, the noble ancestor of many great families of Middle Tennessee and one of the victims in Tennessee's Celebrated Case, ~~the benefactors and friends of the Magnesses~~.

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